

7.0 CONCLUSIONS OF LAW.

7.1 307(B) ISSUE.

This issue calls for determining, pursuant to Section 307(b) of the Communications Act of 1934 as amended, which of the applicants, if any, would best provide a fair, efficient and equitable distribution of radio service. The criteria for making this determination are set forth in the Commission 1982 Policy Statement, Revision of FM Assignment Policies and Procedures (Second Report and Order), 90 FCC2d 88, 91 (1982) which establishes Section 307(b) priorities as follows:

1. First full-time oral service.
2. Second full-time oral service.
3. First local service.
4. Other public interest matters.

The Commission has held that the same priorities listed above apply in noncommercial cases. FM Channel Assignments (Noncommercial Channels), 53 RR2d 1354, 1355 (MMB 1983).

None of the applicants is entitled to a decisive 307(b) preference except over Mims. Central will provide a second service to 45,984 more people than Hispanic and 57,634 more people than BBN and Southwest. This difference represents less than 10% of the total population within Central's proposed service area. Central is entitled to a very slight preference over Hispanic, BBN and Southwest. Hispanic, BBN and Southwest are essentially on equal footing and are entitled to no

preference over the other. BBN, Southwest, Central and Hispanic are entitled to a dispositive preference over Mims.

7.2 CONTINGENT COMPARATIVE ISSUE.

The Hearing Designation Order specified a contingent comparative issue in the event the decision could not be based on 307(b) grounds. The comparative criteria consider "the extent to which each of the proposed operations will be integrated into the overall cultural and educational objectives of the respective applicants" and other factors which indicate that one applicant will provide superior service.

Southwest is the preferred applicant under the contingent comparative issue entitled to a dispositive preference. Southwest has a past and ongoing successful track record of operating noncommercial stations in Florida and in Tennessee and is a permittee of two additional noncommercial facilities in Florida, one in Saratoga and one in West Palm Beach, Florida. Its president, Robert Augsburg has managed the Fort Myers station from 7/87 to 2/92 and is currently managing the Columbia, Tennessee station. He has extensive experience and is familiar with issues in the Orlando service area. Southwest has committed to forming and consulting with an advisory committee of individuals active in educational endeavors within the Conway service area. Southwest will cooperate with Orange County, Florida schools to promote and support educational events, cultural events and sports events. In addition, Southwest will provide internships at the station, a track record it has already

established at WAYJ(FM) in Fort Myers. All of Southwest's Board members have experience in either broadcasting and/or education.

Finally, Southwest has detailed specific substantial programming, particularly addressing area youth, which will address the Conway area needs and issues. The programming also includes 80 minutes of Spanish programming providing educational, cultural, and religious programming to the growing Hispanic community in Orange County. Students will have the opportunity to be directly involved in programming in such programs as Student Meteorological Report which allows students who are majoring in meteorological studies to produce programs.

Southwest's proposed programming and operations are superior to Mims, which has provided no programming evidence. It is also superior to the proposals of Hispanic and BBN. Hispanic's programming is addressed almost exclusively to the Hispanic community, whereas Southwest's programming is addressed not only to Hispanic issues and concerns but to the community at large. BBN is not proposing any programming uniquely addressing the service area needs but instead proposes programming which it apparently airs on all its other stations located throughout the country. Finally, Central's small three person Board, does not offer the same type of diverse input on station operations as does as the 10 member Board of Southwest. In addition, Central does not propose an advisory board as does Southwest.

7.3 TIME SHARE.

In the event the Southwest application is not granted, a share time arrangement should be imposed. Hispanic, Southwest, BBN and Central all are entitled to dispositive 307(b) preferences over Mims. Therefore, Mims should not be included in any share time arrangement. Two of the four remaining applicants, Southwest and Hispanic have affirmatively indicated their willingness to participate in a share time arrangement. Such an arrangement is clearly in the public interest since it will allow for the broadcast of the divergent, but generally comparable, view of four entities in lieu of just a single voice. Share times are routinely imposed by the Commission. See, e.g., most recently Texas Educational Broadcasting Cooperative, Inc., FCC 92D - 46 (ALJ, released June 25, 1992); Maricopa County Community College District, 5 FCC Rcd. 7614 (Rev. Bd. Dec. 26, 1990).

WHEREFORE, it is respectfully requested that the application of Southwest be granted.

Respectfully submitted,

SOUTHWEST FLORIDA COMMUNITY
RADIO, INC.

By 
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August 10, 1992

PROGRAMMING STATEMENT OF SOUTHWEST FLORIDA
COMMUNITY RADIO, INC.

SOUTHWEST FLORIDA COMMUNITY RADIO, INC. IS A NON-PROFIT, TAX-EXEMPT CORPORATION WHOSE PRIMARY OBJECTIVES ARE AS FOLLOWS:

- I. To provide educational, informational, cultural, and family oriented programming to Conway, Florida. This area is rich in the field of arts, and music.
The proposed station would feature programs that would assist in passing this heritage to the young generation.
- II. To offer a considerable amount of positive programming for area youth through:
 - A. Local high school outstanding student salutes.
 - B. Interviewing students who possess scholastic and artistic enthusiasm.
 - C. Educational programs on youth oriented topics, such as drug awareness, family and social interaction, and interpersonal relationships, and religions.
 - D. Cooperation with Orange County Schools in the promotions of drama presentations, sports activities, musical concerts, and special lectures.
- III. Training students for future broadcasting careers through the offering of internships for both high school, and college credit. This would be coordinated through Orange County public and private schools, and also through nearby colleges that offer journalism, public speaking, and broadcasting courses. Such colleges would include, but not limited to University of Central Florida, Rollins College, and Valentia Community College.
- IV. Restoring respect for family and authority. As a broadcast applicant we have already ascertained that there is a great need in the Conway, greater Orlando area for programming that will address the complex needs of the family. The family breakdown has resulted in a general low self esteem among our youth, under achievement in the classroom, and a drug and alcohol abuse epidemic. Programs will be developed to explore solutions to these problems which permeate nearly every facet of our culture.

It is believed that these objectives are not currently being met in the Conway, greater Orange County area. We have ascertained that the community desires a broadcast outlet to address these needs. The applicant will fully comply with the letter, and spirit of F.C.C. rules and regulations.

The purpose of Southwest Florida Community Radio, Inc. is to advance the educational goals of public and private institutions of education, and of public service and charitable organizations in the Conway/Orange County surrounding area. The applicants Board of Directors is comprised of men and women associated with various public, and private schools. We also will be organizing a local advisory committee of men and women from the Conway area who will be active in involving Orange County educational institutions to further enhance the stations advancement of the arts, culture and education.

The applicant is very much aware of the need to involve youth in the operations of this proposed educational station. As a board, we are very concerned about the growing drug problem, suicide, and crime tendencies which permeate our society. This stimulated the initial concern for our first station WAYJ, located in Fort Myers, Florida. Our commitment to the new broadcast station in the vicinity of Conway, Florida will be to offer a similar service to the community. The applicant has a proven track record of training college, and high school students in all facets of broadcasting. Our board is comprised and directed by individuals who possess an extensive background in broadcasting and in training students in this field. We believe that as young people become active in their community and in communications, they will become better citizens.

The ongoing needs of Conway, and the Orange County area will be regularly ascertained, and educational programs to help meet those needs will be provided by the applicant. Our commitment to serve the local Conway area is further exemplified by the applicants willingness to relocate a board member in the new area to be served. In addition to our local advisory committee, we feel like this will help to enable us to better serve the educational, and cultural needs of the Conway, Florida and the greater Orange County area.

PROGRAM DESCRIPTIONS

The following is a sample of proposed programming for new Conway, Florida non-commercial educational station. This list is not all inclusive, but does represent the types of special programs that will accomplish the educational and stated purpose of Southwest Florida Community Radio, Inc. Additional programs will be added as the needs from Conway area residents are expressed through ongoing ascertainsments.

CAREER CONCEPTS:

The applicant has ascertained that youths residing in Central Florida are generally more apathetic than youth in other regions. This apathy filters into the educational process where students about to enter college have little or no knowledge about the possible career choices available to them. The station proposed broadcast facility will feature regular programming that will focus on this problem. Programs would include:

- 1) Interchristo Career Concepts- a two minute program exploring new avenues of careers and the types of courses students should take to qualify for said careers.
- 2) Various interview programs- with students, will be locally produced where guests would be recent college graduates sharing insight and answering questions from students who are unsure of career goals and lack general direction as to what type of higher education they should pursue.

GULFSHORE COLLEGE SPOTLIGHT-

Gulfshore Christian College would produce this program (30 minutes weekly) instructing youth and adult listeners on the available areas of credit study available at their Southwest Florida area campus. Professors of Archeology, Science, Bible and Radio Broadcasting would host these informative programs and students who are enrolled in the radio broadcasting course would be actively involved in the writing and producing of the broadcast for credit in their studies.

HIGH SCHOOL INTERN HOUR -

One hour daily radio show coordinated by a rotating group of students studying fields of journalism and radio broadcasting at various Orange County public and private high schools. The program will serve to add credit and hands-on experience to students who might otherwise not have the opportunity afforded to them.

ORANGE COUNTY FOCUS ON THE ARTS - This proposed program (length to be determined) would be produced and written by the drama departments of Conway area colleges and high schools. The purpose would be to inform area residents on upcoming art exhibits, drama presentations and musical concerts coming to the Conway/Orlando vicinity. The production of this program may also help to add practical experience to students aspiring radio or the fine arts.

STUDENT METEOROLOGICAL REPORT - Periodically, as serious and unusual weather conditions exist, the station will afford the opportunity for students who are majoring in meteorological studies to produce programs that will educate the listening audience on weather conditions such as hurricanes, tornados and the damages of lightning. Central Florida is known for high incidents of lightening related injuries and deaths.

YOUTHTALK - The applicant has ascertained that the Orange County area has one of the highest percentages of teen drug users and abusers. Further research indicates that reasons for this abuse point to the breakdown of the family structure, lack of religious involvement and respect for authority. The applicant will provide a variety of extensive programs hosted by experienced youth pastors, social workers and teachers that will offer hope and practical advice. One such program will be YOUTHTALK every Sunday evening from 8 to 10PM. The program will be hosted by Anne Wanicka, an English teacher who also possesses experience in dealing with confused, troubled teenagers.

PERSPECTIVE - This weekly 30 minute program will feature interviews with Conway area leaders in education, government, and civic organizations. The topic of discussion will focus on the needs of the growing Central Florida area and how to handle problems associated with this growth.

- PARENT TALK - Ascertainments reveal that the breakdown of the family is an ongoing serious problem in the Conway area. Parent Talk will feature experts in the field of parenting and communication with children designed to improve relationships within the home.
- PASSPORT TO SUCCESS - This five minute program will be featured daily and will provide a forum for discussion into the world of business and career. The program will be designed to equip young people with the necessary positive mental attitude and practical helps in discovering job opportunities and advancing in their career.
- FRIDAY FORUM- This live, call-in program will be featured one hour per week and will focus on educating the public on such personal issues as: alcoholism, drug abuse, emotional distress and marital conflict. The show will be hosted by a Central Florida area professional counselor.
- RAY OF HOPE - A spanish program, 90 minutes in length, providing educational, cultural and religious programming to the growing Hispanic community in Orange County. This program will be hosted by the Nations Association, a social service agency working primarily with Hispanics in job service, food distribution and medical care.

CERTIFICATE OF SERVICE

I, Tim Wineland, in the law offices of Gammon & Grange, P.C. hereby certify that I have mailed by first-class, postage-prepaid, U.S. Mail, this 10th day of August, 1992, copies of the foregoing PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF SOUTHWEST FLORIDA COMMUNITY RADIO, INC. to the following:

- * The Honorable Edward J. Kuhlmann
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Room 220
Washington, D.C. 20554

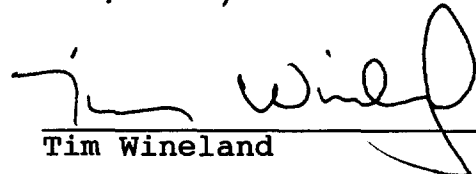
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* Hand Delivered